

SIGNIFICANT LEGISLATIVE RULES ANALYSIS
FOR
WAC 246-217-025

Increase Fees for Food Worker Cards

* * * **FINAL DRAFT 08/16/02** * * *

Background: The Board of Health revised WAC 246-217-025 in 1999, requiring local health jurisdictions to provide at least 30 minutes of training to food worker card applicants before allowing them to take the exam for issuance of a card. Local health jurisdictions have implemented this requirement by providing the training by various means.

The Department of Health recommends increasing the food worker card fee from \$8 to \$10 this year (effective January 1, 2003) to help defray the costs of implementing the training requirements and other aspects of food service program administration.

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

Revised Code of Washington 69.06.020 states, “The cost of the permit shall be uniform throughout the state ... shall reflect actual costs of food worker training and education, administration of the program, and testing of applicants... the state board of health shall periodically review the costs associated with the permit program and adjust the fee accordingly... the board shall also ensure that the fee is not set at an amount that would prohibit low-income persons from obtaining permits.”

Washington Administrative Code (WAC) 246-217-025 (2) states, “Each applicant for a food worker card must pay a fee in the amount of eight dollars. The fee shall be used by the jurisdictional health department or designee to defray the costs of food worker training and education, administration of the program, and testing of applicants.”

The food worker card fee is set to defray costs to local health jurisdictions and their agents for operating food worker programs, without placing undue burden on low-income persons.

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Determine that the rule is needed to achieve the general goals and specific objectives stated and analyze alternatives to rule making and the consequences of not adopting the rule.

Local jurisdictions depend on fees to fund their food worker training and card issuing activities. For the majority of local health jurisdictions, the requirement of providing 30 minutes of food worker training to each card applicant now makes the cost of issuing the cards exceed the \$8 fee charged for the cards. In May 2001, the environmental health directors conducted a survey of local health jurisdictions to determine the current costs of administering food worker card programs. Thirty of 34 local jurisdictions responded. The average cost was \$9.36 per card. The range was \$4.14 to \$15.87 per card.

Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

Providing food workers with basic training on food safety principles is the most effective method of assuring the safety of food service. A \$2 fee increase would allow 80% of local jurisdictions (versus 36.6% currently) to recover their costs of providing both food worker training and issuing food worker cards. Without the fee increase, local health jurisdictions might not be able to provide quality training or might need to subsidize their food worker card program with funds that would otherwise be available for food service establishment inspections and illness complaint investigations.

The Costs of the Proposed Regulatory Amendments

The costs of the change to the rule will be:

1. Increased fees to food workers (\$2/card)
2. Incidental costs to LHJ's:
 - reprinting cards/forms to reflect the change in fee
 - signage to reflect the change in fee

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The department does not anticipate incurring any costs associated with the proposed fee increase. Local health jurisdictions will have incidental costs for changing some existing forms and signs that contain fee information. Food workers will have an individual cost of \$2, amounting to a total statewide cost of about \$350,000 annually.

The Benefits of the Proposed Regulatory Amendments

The proposed fee increase will prevent erosion in the quality of local health jurisdictions' food worker training activities and possibly their entire food safety programs. Lack of adequate fee support for food worker training activities may require that funds for other food safety activities must be diverted to the food worker card program. The benefits of the rule change will be:

1. Ensuring food worker training occurs as required by WAC 246-215-025(4);
2. Not reducing the frequency and depth of food service inspection activities in order to save food program funds for food worker card activities; and
3. Not reducing investigations of foodborne illness complaints in order to save food program funds.

The quantitative cost benefits of quality food worker training programs can only be estimated. The training of one food worker to properly cook hamburgers to a minimum of 155 degrees Fahrenheit could prevent one child from suffering an attack of *E. coli* O157:H7 infection that results in hemolytic uremic syndrome. This illness could result in months of hospital care and possibly require a kidney transplant after the child's own kidneys are destroyed by bacterial toxin. The prevention of the need for medical care for this one child could equal the \$350,000 cost of the fee increase.

The training of one food worker in a busy establishment to properly wash hands and not directly contact ready-to-eat food could prevent an outbreak of hepatitis A affecting dozens of people. Each person could require medical care and suffer loss of the ability to work for several weeks, resulting in costs of thousands of dollars per person.

Cost-Benefit Comparison

Although an accurate quantitative benefit cannot be determined, the department and SBOH conclude that the probable benefits of the proposed rule for protecting public health outweigh the estimated \$350,000 cost of this proposed rule.

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Determine that the proposal is the least burdensome alternative for those required to comply.

A fee increase will impact a large number of low-income workers. To determine the relative degree of burden to low-income workers, it is helpful to compare the proposed fee increase to both the rate of inflation and the rise in Washington state's minimum wage during the 10 year period from 1992 to 2002:

- The national inflation rate was 24.87%
- The Seattle Consumer Price Index increased 36%
- The proposed fee increase from \$8 to \$10 represents a 25% increase (equivalent to the national inflation rate)
- Washington State's minimum wage has increased by 62.3% (from \$4.25 in 1992 to \$6.90 in 2002), and currently is the highest in the nation. Washington's minimum wage increases have outpaced inflation by 39.9% during this period.

A 25% increase in the food worker card fee, which matches the national inflation rate for the 1992-2002 period, represents less of a financial burden for the food worker than attempting to match the 36% increase in the Seattle Consumer Price Index over the same period.

The Proposed Rule does not Violate Any Other Federal or State Statute.

The proposed fee increase does not violate other existing statutes. The proposal would amend the existing food worker fee requirement.

The Proposed Rule does not Impose More Stringent Performance from Private Entities than Public Entities.

The proposed fee increase shall apply to all food worker card applicants. There is no distinction between private and public entities.

The Rule does not Differ from Federal Regulation or Statute, which is applicable to Same Activity or Subject Matter, or Justify Difference.

There is no federal rule applicable to the same activity.

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DOH Has Attempted to Coordinate the Proposed Rule with other Federal, State and Local Laws Applicable to the Same Activity or Subject Matter.

The proposed fee increase does not conflict with any other Federal or State laws regarding food worker cards. The majority of local health jurisdictions support the fee increase and are prepared to adjust local fee schedules accordingly.